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FM AMEMBASSY ALMATY
TO RUEHC/SECSTATE WASHDC 6201
INFO RUCNCIS/CIS COLLECTIVE
RUEHNO/USMISSION USNATO 2134
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C O N F I D E N T I A L SECTION 01 OF 02 ALMATY 002532

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STATE FOR SCA/CEN (JMUDGE), SCA/PPD (JBASEDOW), EUR/ACE
(ESMITH/JMCKANE), DRL/PHD (CKUCHTA-HELBLING)

E.O. 12958: DECL: 07/11/2016

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SUBJECT: KAZAKHSTAN: PRESIDENT SIGNS AMENDMENTS TO MEDIA LAW

REF: ALMATY 2074

Classified By: Amb. John Ordway, reasons 1.4 (B) and (D).

¶1. (SBU) Summary: Kazakhstan has taken a step backward on media freedom, but the step turned out to be much smaller than originally feared. On July 5, President Nazarbayev signed a package of controversial and hastily-considered media law amendments into law. Advocates, including the Information Minister, claim that the amendments are designed to enhance transparency of ownership and ensure that the government and public know who owns and controls the media, particularly television. They point out that the most damaging provisions, including mandatory deposits to cover possible libel judgments and licensing of printing houses, were dropped. Opponents fear the amendments will give the government leverage to restrict media freedom. End summary.

¶2. (C) The amendments toughen existing legislation in several ways:

¶A. Media owners are required to re-register upon any changes in editor, address, or frequency of publication. If an owner fails to register additional changes within a year after the first infraction, the outlet could be closed down. (Note: The Information Minister and the Presidential Administration have told us repeatedly that these are "notification" provisions, i.e. that newspapers do not need to obtain government approval. Since we have not seen the text of the legislation, we cannot verify that in fact this is how the law will operate. End note.)

¶B. Anyone who previously lost a libel judgment can be banned from being a director or editor-in-chief of any other medium. (Note: The Information Minister has assured us that such individuals can hold any other position, from deputy editor-in-chief to journalist, within the same media outlet.)

¶C. All newspapers have to publish within three months of registration and with the regularity (i.e., daily or weekly) specified in the certificate. Radio and television media have to broadcast within six months of registration with the regularity specified in the certificate. Failure to publish or broadcast within the three or six-month deadlines would render the certificates invalid. (Note: This provision was aimed primarily at opposition newspapers that previously registered under multiple names in order to keep publishing when one or another version was closed down by court decisions. Although this requirement might seem more technical than punitive, a publishing "requirement" contradicts international standards of media freedom.)

¶D. Registration can be denied if outlets have a name similar to one that was used before, or if they fail to pay

registration fees. Although the registration fee is not specified by law, media analysts have told us that the fees are about \$40.

¶E. Television broadcasters could be fined up to \$2,600 for not complying with the law mandating 50 percent Kazakh and 50 percent Russian language programming.

Procedure Flawed

¶3. (U) The amendments were passed hastily, within the space of a month, in violation of parliamentary procedure and amid accusations of fraud and complaints by parliamentarians themselves that they were given insufficient time to carefully weigh the provisions.

¶4. (U) On June 15, less than two weeks after accepting them for consideration, the Mazhilis (lower chamber of parliament) passed the amendments after a first reading, although parliamentary regulations require a 30-day review by an expert committee. Parliamentarian and first daughter Dariga Nazarbayeva, who led the charge against the amendments (reftel), on June 21 challenged the outcome of the first reading and insisted on a second vote. She claimed that her own vote against the amendments was not counted, but four yes votes were tabulated for parliamentarians who were not present during the voting session. The second vote on the first reading upheld the majority. On June 22, the Mazhilis passed the amendments in the second reading, which is supposed to be a line-by-line examination of the draft law taking place over the course of a minimum of 10 working days.

¶5. (SBU) The Committee for Socio-Cultural Development of the

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Senate (upper chamber) on June 26 reviewed the legislation and passed it immediately to the full Senate for review. On June 29, the Senate unanimously approved the draft amendments in two readings.

¶6. (U) The information ministry rushed the amendments through the approval process without sharing the evolving draft law with concerned media and media advocates. The provision requiring a \$40,000 deposit as indemnity against potential libel suits was removed before the package was formally accepted by the Mazhilis for consideration on June 2. However, outdated versions amendments showing this provision were subsequently circulated among media defense organizations and hotly contested during the public debate that started June 5. Even after the amendments had been passed by Parliament June 29, local and Western media, including the Associated Press, were still reporting on the mandatory deposit requirement.

¶7. (C) During the Independence Day reception in Astana June 29, Information Minister Yermukhamet Yertysbayev told the ambassador that the purpose of the amendments was to help the government track primarily television entrepreneurs, while simplifying overall media registration procedures. He also repeated what he has said publicly, that the government had no intention of using legislation to close down media. Maulen Ashimbayev, deputy head of the presidential administration, and Deputy Foreign Minister Rakhat Aliyev both told the Ambassador that they believe Yertysbayev was acting on behalf of the president, and that President Nazarbayev would sign the legislation. In an interview June 23 with the opposition newspaper Respublika, Aliyev also commented that the amendments would present "a serious obstacle" to Kazakhstan's chairmanship of the OSCE.

¶8. (SBU) Comment: The ultimate impact of the legislation will depend on how the law is enforced. As in the past, Kazakhstan's savvy press, working within the confines of the law and maneuvering through legal avenues, will likely find a way to keep publishing. The more interesting question is

what impact it will have on television, and the ongoing struggle by Yertestabyev (apparently with the blessing of the President, if not actually at his behest) to wrest control of the major outlets from Dariga Nazarbayeva and her husband, Rakhat Aliyev. End comment.
ORDWAY